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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,750	05/21/2001	John Skalen	P/1629-43	6152
2352	7590	01/18/2005	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			CHAMBERS, MICHAEL S	

ART UNIT PAPER NUMBER

3711

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	<b>Application N .</b>	<b>Applicant(s)</b>
	09/787,750	SKALEN, JOHN <i>CN</i>
	<b>Examiner</b>	<b>Art Unit</b>
	Mike Chambers	3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 12 November 2004.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 7-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 7-12 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some \* c)  None of:

- 1.  Certified copies of the priority documents have been received.
- 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

**Note:** The applicant's response contains claims 7-8 and 10-13. Claims 10-13 have been renumbered to claims 9-12 by the examiner to maintain consecutive numbering in the case.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 10, 11 and 12 are rejected under 35 U. S.C. 103(a) as obvious over the British reference (Deane) in view of Windall. Deane discloses the elements of claim 11. However it does not clearly disclose the use of indicia placed on the tether. Windall discloses the use of indicia on the tether (15,17,18). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the indicia of Windall on either or both of the lines with the apparatus of Deane in order to give the user a theoretical indication as to the drive location of the ball (See Deane col 2: 28-41) and reduce the manufacturing cost and the number of sub-components ( 11) of the apparatus. Note that the phrases in the claim directed to the intended manner of use of the device and the number of clubs used with the device do not distinguish over the applied prior art (See MPEP 2112).

As to claim 7: The dimensions cited are a matter of design choice. The specification provides no unexpected results in using the cited non-resilient and resilient

line lengths. It would have been obvious to one of ordinary skill in the art to have selected an appropriate length and size of the tethers to insure the apparatus would operate in an appropriate manner.

As to claim 10: Deane discloses controlling the return of the ball (3: 1-7).

As to claim 12: Deane discloses ground anchors (fig 1).

Claims 8 and 9 are rejected under 35 U. S.C. 103(a) as being unpatentable over the prior art cited in view of Official Notice given in the prior office action. Official notice was given that attachment of balls and tethers are well known in the art. One of ordinary skill in the art would have selected an appropriate attachment means from one of many equivalent attachment means. The specification provides no unexpected results in using attachment means cited. It would have been obvious to one of ordinary skill in the art to have selected an appropriate attachment means to insure the apparatus would operate in a safe manner.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is (571) 272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 12, 2005

  
GREGOR VIDOVICH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700